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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,036	01/20/2004	Stephen Handley	WH-12 255US	7113

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EXAMINER

BRINSON, PATRICK F

ART UNIT PAPER NUMBER

3754

DATE MAILED: 05/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/759,036

Applicant(s)

HANDLEY, STEPHEN

Examiner

Patrick F. Brinson

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claim 7 is objected to because of the following informalities: Claim 7 repeats “one guide instructions for removing said large rectangular connector”. Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over 5,813,701 to **Noble** in view of 3,349,805 to **Fried**.

The patent to **Noble** discloses a downspout extension (10a) comprising an integral plastic component having a downspout connector end (14a), a corrugated middle section (18a) of extendable length and a drainage pipe connector end (20a). The corrugated middle section having a series of expandable pleats movable between a collapsed position of a short length through a center position to an extended position of a greater length. The pleats allowing the downspout extension to easily

bend for changes in direction or repositioning. The drainage pipe end connector comprising a circular collar, with one end merging with the corrugated middle section and opened on an opposite end. The collar being of a width to allow effective connection to a drainage pipe, as recited in claim 1. The downspout connector includes a corrugation connector (16a) for connection with the corrugated middle section, as recited in claim 2. Figs. 10C and 10D disclose the corrugation connector including a projecting locking arrangement (48a, 46b) that extend continuously about the periphery, outwardly from the corrugation connector for an interference fit if inserted on an adjacent pipe, as recited in claims 3 and 4. Also disclosed are "guide instructions" in the form of cutlines (30) molded at each end, as recited in claims 5 and 6. **Noble** discloses the recited structure with the exception of the downspout having a smaller generally connector in connection with the larger downspout connector for connecting with a downspout of a smaller size. The patent to **Fried** discloses a hose having an end with diameters that progressively reduce in size so that the hose may be connected to varying sizes of hoses. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the downspout end of **Noble** to have a number of reduced sized connector ends as suggested by **Fried** in order to enable the hose to connect to regular sized downspouts and to downspouts of smaller size. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in

the art to form the middle corrugated portion in a rectangular shape because Applicant has not disclosed that forming the middle portion in a rectangular shape provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the cylindrical shape taught by **Noble**. Therefore, it would have been an obvious matter of design choice to modify **Noble** to obtain the invention as specified in claims 1 and 3.

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Noble** '701 in view of **Fried** '805 as applied to claims 1 and 2 above, and further in view of U.S. 3,825,288 to **Maroschak**.

The patent to **Noble**, as modified, does not disclose the corrugation connector including locking recesses for cooperating and locking with an inward edge of the pleats of the middle section of a second downward spout extension. The **Maroschak**

discloses a fitting for a corrugated plastic pipe including ends (11) that are connected with the corrugated portion (10) having recessed latching portions (13) for cooperating and locking with an inward edge of the pleats of the middle section of a second corrugated pipe (30), as shown in fig. 5. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide to the corrugated connector of **Noble**, as modified, recesses as suggested by **Maroschak** in order to interlock with pleats of a middle section of an adjacent extension.

### *Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Schlein, Klover, Smith '825 and '777 and Noble '735 are pertinent to Applicant's invention in disclosing downspout extensions or other corrugated hoses with socket connectors.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Patrick F. Brinson** whose telephone number is (571) 272-4897. The examiner can normally be reached on M-F 7:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Michael Y. Mar** can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patrick F. Brinson  
Primary Examiner  
Art Unit 3754

P. F. Brinson  
May 2, 2005